

FINAL

**MINUTES OF THE COTTONWOOD HEIGHTS CITY
PLANNING COMMISSION MEETING**

Wednesday, December 7, 2011

6:00 p.m.

**Cottonwood Heights City Council Room
1265 East Fort Union Boulevard, Suite 300
Cottonwood Heights, Utah**

ATTENDANCE

Planning Commission Members:

Perry Bolyard, Chair
Paxton Guymon, Alternate
Lindsay Holt
Joseph L. Scott
James S. Jones, Alternate
Bradley Jorgensen
Dennis Peters
Joseph L. Scott
Jennifer Shah
Gordon Walker

City Staff:

Brian Berndt, Planning Director
Morgan Brim, City Planner
Shane Topham, City Attorney
Kory Solorio, Deputy City Recorder

BUSINESS MEETING

1.0 WELCOME/ACKNOWLEDGEMENTS – CHAIR BOLYARD

Chairman Perry Bolyard called the meeting to order at 6:00 p.m.

2.0 CITIZEN COMMENTS

There were no citizen comments.

3.0 PUBLIC HEARINGS

3.1 (Project #CUP-11-003) Public Comment on a proposal from Zions Bank requesting approval to construct a new bank located at 7015 South Highland Drive.

(18:04:00) City Planner, Morgan Brim, presented the staff report and identified the proposed location as the southeast corner of Highland Drive and Fort Union Boulevard. Zions Bank is proposing to construct a building on the northwest corner of the site with a drive-thru island adjacent to the east property line. The building will be approximately 4,100 square feet with the drive-thru island being approximately 1,500 square feet. Mr. Brim next described highlights of the project and stated that currently there are four accesses on the site that the applicant is consolidating into two. There will be one on each side pushed back away from the intersection to

reduce traffic conflicts. A dedication area is proposed for a new turn lane onto Fort Union Boulevard off of Highland Drive and a merge lane back onto Fort Union Boulevard. The proposed improvements are to occur over the next three to five years. Mr. Brim reported that the Architectural Review Commission is scheduled to review the site at its next meeting. They will review the details of the design, aesthetics, and landscaping. Staff recommended approval with the conditions set forth in the staff report.

(18:05:54) Jay Lems was present on behalf of the applicant and stated that the building is situated on the corner to help provide access to the site away from the intersection. The drive-thru canopy is located behind the building as viewed from Highland Drive. A monument sign is proposed on the main corner of Highland Drive and Fort Union Boulevard. Mr. Lems stated that there appears to be an overabundance of landscaping in front on Fort Union Boulevard that will be removed by the right-of-way which will reduce the size of the site by about .15 acre.

(18:07:10) Chair Bolyard opened the public hearing. There were no public comments. The public hearing was closed.

(18:08:51) *Commissioner Holt moved that the Commission next take action on agenda item 4.1 with regard to the Zions Bank proposal. Commissioner Peters seconded the motion. Vote on motion: Bradley Jorgensen-Aye, Dennis Peters-Aye, Gordon Walker-Aye, Jennifer Shah-Aye, Joseph L. Scott-Aye, Lindsay Holt-Aye, Chairman Perry Bolyard-Aye. The motion passed unanimously. Alternate Planning Commission Members Paxton Guymon and James S. Jones did not participate in the vote.*

The Commission next addressed agenda item 4.1.

3.2 (Project #CUP-11-011) Public comment on a proposal to adopt the Canyon Residential Development New Zoning Category to the Cottonwood Heights Municipal Code.

(18:11:45) Planning Director, Brian Berndt, presented the staff report and stated that in August 2011 the City Council voted down the CRR Zone recommended by the Planning Commission two years prior. During the discussion staff was directed to create a second ordinance and look at a residential zoning classification that would allow for a mix of housing types to be more supportive of other anticipated mixed uses in the area. One of the primary goals in the creation of the ordinance was to set specific parameters to protect the ridgeline. In addition, an architectural element was introduced to ensure that there is some design aspect to the zoning.

(18:14:40) Chair Bolyard opened the public hearing.

(18:17:20) Roger Kehr gave his address as 7061 Timberline Drive and spoke on behalf of the Tavaci Homeowners' Association. He identified himself as the only person who owns property in the subdivision and he sided with the City in protesting the disconnect petition. He understood that the higher the density, the more profit he can make on his property. He did not, however, put a value on quality of life, which to him far outweighs financial gain. Mr. Kehr stated that for over three years he has acted as the City's Volunteer Emergency Communications Service Coordinator. During that time, much has been accomplished including the City receiving an award for its collaborative preparedness. He questioned why the Commission was being misled and their

efforts pre-judged. Mr. Kehr stated that specific procedures need to be followed to assure that a complete analysis has been done of what was presented by the Mayor, recognizing that it did not represent the views of the entire City Council or the Citizens Advisory Committee. He urged the Commission to take its time to decide whether a new zone is in the City's best interest.

(18:22:10) James Cromer, a Wasatch Haven Court resident, read comments submitted by Richard Schutt. The Commission was urged to do what is in the best interest of the City. Mr. Cromer urged the Commission not to perpetuate the plan to help a developer who has shown disdain for the community. He recommended that a decision on the part of the Commission be postponed until the court makes its decision. Mr. Cromer stated that he learned long ago that one should not negotiate with themselves. In his opinion, that was what the Mayor, City Council, and potentially the Planning Commission are in the midst of doing. Mr. Cromer did not understand why the City was considering granting the property owner more than he was originally entitled to.

(18:25:00) Todd Leeds introduced himself as a Registered Professional Geologist for the State of Utah and gave his address as 7265 South 1950 East. He expressed support for the current zoning and thought it was ridiculous for the City to waste time and money on a rezone that the developer does not want. He felt the Planning Commission should postpone taking action until the landowner pays his back taxes. He considered what was proposed to be contrary to the current zoning, which he supports. Mr. Leeds did not suggest the City take jurisdictional control of the road under any circumstances. He commended the Mayor for taking a strong stance and urged the Commission to not approve the CRD Zone.

(18:27:25) Will McCarvill gave his address as 3607 Golden Hills and provided copies of his written comments to the Commission Members. He believed there had been consistent pressure applied over the last several years by the City to increase the density of Tavaci four to five times over the current entitlement. He reviewed the audio and written summaries of the Planning Commission Meetings prior to approval of the original CRR Zone over two years earlier, which showed the likely beneficiary was the Snowbird property. He suggested any action on the CRD be delayed until the case runs through court.

(18:30:45) Ken Paulson gave his address as 4060 East Prospector Drive and expressed his opposition to a rezone that would allow increased density in the Tavaci development. He remarked that the developer initially got the County to change their zoning to allow his development and now, because of economic conditions, he wants to change something else at the expense of the citizens of Cottonwood Heights. The Citizens Committee unanimously agreed that the CRR Zone is not appropriate for the Tavaci Development. On that basis, the City Council did not authorize development. Mr. Paulson was concerned about the second access road and recalled that it would be a requirement once the development density increases. Gun Club Road currently is owned by someone else and there is no indication that the current owner has made an agreement with the Tavaci Development to allow the second access road. Such a road would require substantial redevelopment because it is not suitable for emergency vehicle access. This was confirmed by the Fire Marshal. In addition, the second access road exits in the City of Holladay who has determined that the road is not suitable for access.

(18:34:12) Jennifer Kecor was present on behalf of Save Our Canyons and gave her address as 824 South 400 West, Suite B-115. Save Our Canyons is a local non-profit organization dedicated to protecting the wildness and beauty of the Wasatch canyons, mountains, and foothills. Ms. Kecor

stated that next year marks the 40th anniversary of their conservation efforts in the area. They have been involved in this issue since the beginning and she urged the Commission to deny the CRD Zoning Ordinance.

(18:37:15) Randy Long gave his address as 8610 Kings Hill Drive and expressed opposition to what is proposed. His preference was for the area to remain as-is.

(18:38:35) Bruce Baird identified himself as legal counsel for Tavaci and in his years of practice he had never seen a property specific zoning ordinance presented to a Planning Commission without discussing it with the property owner. He also had never seen an ordinance presented with so many flaws. Mr. Baird commented that Mr. Kehr does not represent the Tavaci Homeowners' Association as he has only 1 vote out of 43. He also noted that the Tavaci Homeowners' Association is controlled by the developer. Mr. Baird stated that the proposed ordinance constitutes a down zoning and a taking since the areas shown in green are developable. He considered the zone to be a "bait and switch" by the planning staff. Mr. Baird stated that one of the fundamental problems with the ordinance is that nothing is a permitted use other than single-family housing, which would include 75 functional units and a down zoning from the currently allowable 90 units. His opinion was that the only possible way to consider what is proposed to be a compromise would involve going through a process where the applicant would come back to the City over a period of years on conditional uses. Chair Bolyard invited Mr. Baird to submit his previously prepared worksheet to be reviewed by the Commission.

(18:45:05) Doug Shelby gave his address as 4318 Lynn Lane and identified himself as the Managing Partner of Walker Development, who owns the property to the north and west of the proposed site. He had hoped the zone would be generic in nature rather than address the Tavaci parcel specifically. Mr. Shelby stated that they own more property than Tavaci at the Bonneville level. He suggested the Planning Commission take that into consideration and think creatively to improve the aesthetics.

There were no further public comments. The public hearing was closed.

4.0 ACTION ITEMS

4.1 (Project #CUP 11-003) Action taken on a proposal from Zions Bank requesting approval to construct a new bank located at 7015 S. Highland Drive.

(18:09:50) In response to a question raised, Mr. Brim stated that the sidewalk will remain in place and the ADA compliance will remain intact as shown on the plans. It was also noted that the park strip distance will be four to five feet once the turn lane is installed with an eight-foot sidewalk.

(18:10:45) *Commissioner Shah moved to approve the proposal from Zions Bank subject to pending recommendations by the Architectural Review Committee and the following:*

Conditions:

- 1. A dedication strip of 20 feet shall be required along the frontage of the subject parcel along Highland Drive and Fort Union Boulevard to provide space for a turn and merge lane. A plat shall be recorded with the Salt Lake County Recorder's Office.***

2. *The applicant must receive approval from UTA to relocate bus stops on the project site. The bus stop must be upgraded to include the City standard bench, planter, and trash receptacle. An ADA compliant route must be provided from the site to the bus stop.*
3. *One City standard street light is required to be placed in the parking strip between the sidewalk and street along each street frontage.*
4. *Exterior wall signs are only allowed to be located on the building's street side facades.*
5. *Two large pine trees exist on the east side of the property and shall be preserved and incorporated into the landscaping plan. These trees shall be marked and inspected by staff before any grading or demolition occurs. All new trees shall maintain at least a three-inch caliper.*
6. *Bonding shall be required for all required onsite and offsite improvements. The applicant shall submit an itemized bonding list to the City Engineer for his approval.*
7. *The garbage enclosure shall be constructed out of architecturally compatible materials and shall have metal gates.*
8. *All roof-mounted mechanical equipment shall be completely shielded from the public way and adjacent properties with architectural elements of the building.*
9. *Property owner shall safely maintain the functionality and performance of the ingress and egress access management recommendations as outlined in the traffic report, otherwise, access management measures, such as medians on Fort Union Boulevard, shall be installed to prevent illegal turn movements for safety. This will include, but not be limited to, maintenance of pavement markings, turn prohibition signs and other devices as indicated in the traffic report and as required by the City Engineer.*
10. *The storm drain detention system and storm water sediment and oil/water separator shall be inspected and maintained by the property owner. The sediment and oil/water separator shall be cleaned to prevent material from entering the City's storm drain system.*
11. *Property owner shall maintain ADA access, sidewalk, detectable warning devices and other access features in compliance with the ADA guidelines.*
12. *Property owner shall maintain the curb and gutter and sidewalk.*
13. *Property owner shall permit the City to make modifications within the dedicated right-of-way to facilitate the intersection improvements as well as any adjustments to the drive access, pedestrian access, landscaping or other features that may warrant adjustment on the property owner's parcel for the roadway widening.*
14. *Property owner will obtain an NOI, maintain a SWPPP and comply with City, State, and Federal standards during construction.*

15. *A Construction Mitigation Plan will be required for the building permit.*
16. *Construction for the project shall be limited to the hours between 7:00 a.m. and 8:00 p.m. daily.*

Commissioner Jorgensen seconded the motion. Vote on motion: Bradley Jorgensen-Aye, Dennis Peters-Aye, Gordon Walker-Aye, Jennifer Shah-Aye, Joseph L. Scott-Aye, Lindsay Holt-Aye, Chairman Perry Bolyard-Aye. The motion passed unanimously. Alternate Planning Commission Members Paxton Guymon and James S. Jones did not participate in the vote.

The Commission next addressed agenda item 3.2.

4.2 (Project CUP #11-003) Action Taken on a proposal from Pete Simmons, requesting approval to construct a 65-foot high monopole on the west side of St. Thomas More Church located at 3015 E. Creek Road.

(18:02:14) Chair Bolyard informed those present that the above item was continued due to errors in the application, which is under review.

4.3 Action taken to adopt a 2012 Meeting Calendar.

(18:52:00) *Commissioner Jorgensen moved to adopt the 2012 Meeting Calendar as proposed. Commissioner Scott seconded the motion. Vote on motion: Bradley Jorgensen-Aye, Dennis Peters-Aye, Gordon Walker-Aye, Jennifer Shah-Aye, Joseph L. Scott-Aye, Lindsay Holt-Aye, Chairman Perry Bolyard-Aye. The motion passed unanimously. Alternate Planning Commission Members Paxton Guymon and James S. Jones did not participate in the vote.*

4.4 Approval of November 2, 2011 Minutes.

(20:54:45) *Commissioner Paxton moved to approve the minutes from the October 5, 2011 Meeting. Commissioner Scott seconded the motion. Vote on motion: Bradley Jorgensen-Abstained, Dennis Peters-Aye, Gordon Walker-Abstained, Jennifer Shah-Abstained, Joseph L. Scott-Aye, Lindsay Holt-Aye, Chairman Perry Bolyard-Aye. The motion passed unanimously with three abstentions. Alternate Planning Commission Members Paxton Guymon and James S. Jones did not participate in the vote.*

5.0 ADJOURNMENT

(20:56:10) *Commissioner Walker moved to adjourn. Commissioner Jorgensen seconded the motion. Vote on motion: Bradley Jorgensen-Aye, Dennis Peters-Aye, Gordon Walker-Aye, Jennifer Shah-Aye, Joseph L. Scott-Aye, Lindsay Holt-Aye, Chairman Perry Bolyard-Aye. The motion passed unanimously. Alternate Planning Commission Members Paxton Guymon and James S. Jones did not participate in the vote.*

The meeting adjourned at 6:57 p.m.

I hereby certify that the foregoing represents a true, accurate and complete record of the Cottonwood Heights City Planning Commission Meeting held Wednesday, December 7, 2011.

A handwritten signature in dark ink, reading "Teri Forbes". The signature is written in a cursive, flowing style. The first name "Teri" is written with a large, looped 'T' and a small 'i'. The last name "Forbes" is written with a large 'F' and a long, sweeping underline that extends to the right.

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes approved: